

# EXHIBIT A

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION

HAVENS, et al.,  
Appellants,

v.

MARITIME COMMUNICATIONS/  
LAND MOBILE, LLC,

Appellee.

CIVIL ACTION NO. 1:13-cv-00173-SA  
Lead Case, Consolidated with  
1:13-cv-174-SA

**FILED**

JUL 12 2017  
DAVID CREWS, CLERK  
BY Deputy

AND

HAVENS, et al.,  
Appellants,

v.

MARITIME COMMUNICATIONS/  
LAND MOBILE, LLC,

Appellee.

CIVIL ACTION NO. 1:13-cv-00180-SA  
Consolidated with  
1:13-cv-00181-SA  
1:13-cv-00182-SA  
1:13-cv-00183-SA  
1:13-cv-00184-SA  
1:13-cv-00190-SA  
1:13-cv-00191-SA  
1:13-cv-00192-SA  
1:13-cv-00193-SA  
1:13-cv-00194-SA

MOTION FOR REHEARING

Warren Havens, an individual party *pro se* (“Havens” or “Petitioner”) brings this motion for rehearing regarding the court’s order dismissing the above-captioned consolidated cases on appeal ( “Appeal Case,” “Dismissal Order,” and “Motion”). Unless otherwise explained, herein “MCLM” means Appellee, alleged Debtor in Possession in the underlying bankruptcy case, with its successors in interest in its chapter 11 plan, several entities named “Choctaw.”

RELIEF REQUESTED AND PRELIMINARY STATEMENT

Petitioner requests that the Appeal Case be reinstated, and then suspended, until the FCC decides by “final approval order” (discussed below, and subject of the MCLM Chapter 11 Plan) the multiple contested proceedings involving the MCLM FCC licenses (at issue in this Appeal

Case), in which Petitioner is a challenging party, asserting claims against and in the licenses (and against MCLM and affiliated parties including the “Choctaw” entities).

Petitioner also requests that the Court defer decision on this Motion and allow a supplement to the Motion (“Supplement”) (and extend time for Appellee to oppose or otherwise respond, to a date after a permitted Supplement is filed, or is due, that the court reasonably sets) based upon the bankruptcy court Order of today, Exhibit 1 hereto, that sets the described evidentiary hearing date of August 31, 2017. The evidence and other matters at that hearing (prior to which Petitioner will be submitted a further pleading or pleadings, as he explained to the court in his Response described in Exhibit 1) will bear upon the evidence and other matters in this Motion and thus, permitting the above requested schedule will increase judicial efficiency and allow a more full and complete record.

Petitioner respectfully submits that the rationale underlying the Dismissal Order, due or partly due to false and misleading statements by MCLM (including Choctaw), overlooked facts or precedents which, had they properly been considered, would reasonably have altered the result, and thus, that grant of this Motion is appropriate. In sum, *inter alia* (1) the MCLM Chapter 11 Plan (as approved by the bankruptcy court) (the “Plan” and “Plan Order”) defines and requires “final approval” orders from the FCC which clearly have not been obtained; (2) MCLM failed to submit to and obtain FCC acceptance of showings of “innocent creditors” which is a require prong of the FCC “Second Thursday Doctrine,” relief under which is the gravamen of the Plan and Plan Order; (3) MCLM engaged in, admitted to, and maintain, actions that constitute fraud, evidence spoliation and obstruction of Justice in its core FCC licensing matters (carried in the bankruptcy case and this Appeals Case) which are grounds for disqualification and denial of relief attempts at issue before the FCC and these two courts (and that may also constitute bankruptcy fraud); (4) MCLM maintains its multiple challenges against Petition before the FCC, and Petitions asserts these are frivolous and subject to FCC remedies

against MCLM for sanctions and monetary damages; and (5) Petitioner maintains, with no gap, to legal standing to continue as he is doing before the FCC (and in the bankruptcy case below and in this Appeal Case) to prosecute his claims against and in the licenses, as well as claims for sanctions and damages against MCLM; (6) MCLM's unlawful actions, including those above, prejudiced Petitioner and are ground for relief otherwise not available, including equitable tolling, supporting grant of at least alternative relief requested in this Motion; (7) Additional grounds also apply including that the MCLM Licenses are void ab initial, and special-relief FCC Orders MCLM procured are based on ultra vires action resulting in the Orders being void, not simply in error as to decisional facts, and discretionary standards (arbitrary and capricious, contrary to precedent, etc.) and subject to reconsideration on de novo basis.

For these reasons, Petitioner continues to assert before the FCC, this Bankruptcy Court below and this Court that the Plan and Plan Order (and other Orders in this Appeal Case) are not viable under the needed FCC proceedings and law, and other bases of the appeal; and are procured and sustained by fraud and criminal violations that are disqualifying and sanctionable; and in addition prejudice and add to damages of Petitioner against MCLM and its affiliates (see 47 USC §§ 217, and 411) giving rise to equitable tolling and other equitable relief on behalf of Petitioner. Thus, Petitioner requests grant of the relief described above.

#### ADDITIONAL BACKGROUND

Petitioner's main background and ongoing work is described in the chapter 11 bankruptcy case of Skybridge Spectrum Foundation ("SSF") (Delaware Bankruptcy Court, Case 16-10626-CSS). Havens founded SSF and primarily capitalized it by charitable donations. MCLM has challenged and to this day challenges SSF and Havens before the FCC (and in other

ways), and SSF and Havens have defended and continue to defend from these challenges.<sup>1</sup> As this SSF case demonstrates, SSF is an I.R.C. section 501(c)(3) non-profit, tax-exempt, non-stock Delaware corporation formed in 2006 for charitable, educational, and scientific purposes, including providing programs, education, and research that promote public safety, environmental protection, and the preservation and sound use of scarce public resources, in which a main goal under its tax “exempt—purpose mission” and business plan is to implement nationwide, ubiquitous (including areas not served, or reliably served, by wireless carriers), highly accurate and precise radio—based positioning, navigation and timing applications benefitting the general public and national welfare. Petitioner, Havens in SSF’s current member, director, and president, performing these roles as an unpaid volunteer.<sup>2</sup>

#### JURISDICTION, VENUE, AND RELIEF REQUESTED STANDARD

It is already established that this Court has jurisdiction over this contested matter and this is reflected in the Court’s Order of June 30, 2017 (Doc. 292) granting an extension time to file this Motion. *Pro se* Petitioner submits that the relief-requested standard that applies is Rule 59 F.R.Civ.P.<sup>3</sup> and is complied with herein.

#### ARGUMENT<sup>4</sup>

(1) Failure to get required “final” FCC approval orders. See Preliminary Statement ‘(1)’.

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<sup>1</sup> Petitioner has his own challenges against MCLM, and against and in its claimed FCC licenses, and has sufficient legal standing to do so before the FCC (as well as in the bankruptcy court below, and in this Court).

<sup>2</sup> For further background, see in this SSF case: Declaration of Havens in Support of the Debtor’s Petition and First Day Pleadings (D. I. 30); Declaration of Havens in Support of...(D.I. 70) with errata sheet (D.I. 74); Declaration of Havens in Support of... (D.I.98) with errata sheet.

<sup>3</sup> FRPB 9023 provides: “ ... Rule 59 F.R.Civ.P. applies in cases under the Code....In some circumstances, Rule 8008 governs post-judgment motion practice after an appeal has been docketed and is pending,” and in the “Notes of Advisory Committee...., “ Rule 59 F.R.Civ.P. regulates motions for a new trial and amendment of judgment....”

<sup>4</sup> *For efficiency and space/ word saving, this the component numbered Arguments reference and incorporate, but do not repeat, the summary of each in the Preliminary Statement above.*

In addition: The relevant denials, and interest in the Licenses, that are at issue in the Appeal Case are as described in the MCLM Chapter 11 Plan (as approved by the bankruptcy court) (the “Plan” and “Plan Order”). This involves whether Choctaw will get from MCLM by final approval / order of the FCC, all interest and title in the Licenses (and prior FCC decisions needed for that, which must also be “final”). This unquestionably has not occurred as shown in the ongoing FCC proceedings in which Petitioner continues, with standing and in proper time, to challenge the Licenses, based on his claims against and to the Licenses. E.g. (emphases added): see the MCLM Plan Order (Doc.973) at p. 11 bottom regarding “what the FCC *ultimately* decides regarding the subject licenses” which reflects the Plan (Doc. 973-1): including see its definitions on p. 6 of “*Final Order*” and p. 10 (“such transfer is and will be subject to *final* approval by the FCC”.... “after *final* FCC approval of [Choctaw] Holding as the owner and holder of the FCC spectrum licenses....”). The Petitioner’s ongoing to this day, timely and under proper legal standing, FCC challenges against and for interests in all of the subject FCC Licenses in MCLM name, make this “final” “ultimate” requirement not obtained.

Further in this regard, contrary to the MCLM’s Motion to Dismiss [Doc # 92], and the Court’s Order granting it, the FCC proceedings (and the issues therein), which were part of the basis for the Court’s Agreed Order Administratively Terminating Appeals without Prejudice dated April 16, 2015 [Docket No. 267] (the “Agreed Order”), are still going on. That is, they have not been “ultimately decided” by the FCC by any “Final Order” or approval (FCC orders follow approvals and any memo explaining approval in a contested matter as in this case), and the lower court’s decisions and rulings were contingent upon FCC “ultimately decided” relief, as stated in the Plan. In fact, several of the pending FCC proceedings that were the basis for the Agreed Order were at the appeal stage, and those and now additional ones involving MCLM and its licenses, still continue before the FCC on appeal. In other words, just because the FCC issued a decision does not make it final or “ultimately decided” for purposes of finding that Havens

does not have standing and interest or that his Appeals are moot. For example, the FCC proceedings noted in the Agreed Order included, but were not limited to, the FCC's Second Thursday Docket 13-85 proceeding which was at the appeal stage, since the FCC denied MCLM's and Choctaw's first Second Thursday attempt (in Commission Order, FCC 14-133), and Havens was appealing that decision as were MCLM and Choctaw. In other words, this Court and the parties, previously accepted as basis for the Agreed Order and for not dismissing Havens' appeals, several FCC proceedings that were at appeal stages and thus not final. That situation still applies today. Therefore, Havens' appeals were improperly dismissed by this Court and should be reinstated.

(2) Failure to show and get approval of "innocent creditors" requirement. See Preliminary Statement '(2)'. In addition: Again based on false statements of MCLM (including Choctaw), here to the FCC, the FCC unquestionably erred in denying Petitioner's challenge to MCLM's second request to keep its Licenses (otherwise in a revocation proceeding) under the FCC "Second Thursday Doctrine" and granting that request, in late 2016. The falsity is, first, that the Bankruptcy Court found that the MCLM Plan complied with the "innocent creditors" prong of the "Second Thursday Doctrine" because that was somehow determined by the Bankruptcy Court. But it was not and cannot be. Rather, the Bankruptcy Court properly and repeatedly, including in the Plan Order, disavowed any jurisdiction or role in any FCC determination needed under the Second Thursday Doctrine or other FCC determination required under the Plan. In this regard, the FCC's December 2016 decision to grant the MCLM second request (on reconsideration, but actually it was based on new alleged facts of the bankruptcy of Mr. Depriest) and the related full record show that MCLM submitted no such innocent-creditor showing, but Choctaw (which is the agent of MCLM or the licensee with standing in this matter) asserted to the FCC that the bankruptcy court in some way determined this FCC "innocent-creditor" issue, but Choctaw submitted no such showing.

Further, Havens' "Petition 2" of FCC 16-172 (link given above), at its pages 17-18 argues how the FCC's Second Thursday Order, FCC 16-172, improperly relied upon Choctaw's false assertions that somehow the bankruptcy court determined who were "innocent creditors", when that is not the bankruptcy court's jurisdiction to determine, but rather the FCC's job under its Second Thursday policy. This fundamental error by the FCC in FCC 16-172 shows that Havens has a very strong chance of overturning FCC 16-172 on appeal. The FCC's Second Thursday Order, FCC 16-172, states at its ¶15 the following (footnotes inline, emphasis added):

15. The record also establishes that the creditors of MCLM who would benefit from the proceeds obtained from assignment of the licenses are innocent creditors. None of the creditors has been accused of wrongdoing, either in the HDO or otherwise.<sup>5</sup> Choctaw asserts, without contradiction in the record, that "there was extensive testimony before the Bankruptcy Court on the issue of innocent creditors,"<sup>51</sup> and we give great weight to the Bankruptcy Court's findings that the Plan represents a good faith effort to benefit innocent creditors of MCLM without unfair discrimination.<sup>52</sup>....

51/ See Choctaw Opposition at 15.

52/ See, e.g., Confirmation Order at 3.

Thus, the FCC never properly determined who were innocent creditors, and that is a fatal flaw in FCC 16-172, that Havens has raised on appeal to the FCC, and that makes FCC 16-172 *ultra vires* and *void ab initio*. The bankruptcy court did not determine who were "innocent creditors" as that term is meant under the FCC's Second Thursday policy, which requires the FCC to determine who are the innocent creditors versus those who had a relation with the bad actors or knowledge of the bad actions under FCC rules. The bankruptcy court did not make a determination of "innocent creditors" for purposes of FCC Second Thursday policy because that is the sole jurisdiction of the FCC and the bankruptcy court is not the authority to decide that

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<sup>5</sup> This is untrue. [EXPL]



issue based on the facts before and to be obtained by the FCC, not the bankruptcy court. Thus, the FCC failed to make the proper determination of innocent creditors.<sup>6</sup>

(3) Disqualifying fraud, spoliation and obstruction. See Preliminary Statement ‘(3)’. In addition: See the Havens FCC pleadings at the FCC web links provided herein. See also the planned Supplement to this Motion if permitted by the Court (see above). Also, in upcoming FCC and bankruptcy filings, Havens will detail how MCLM has admitted to major violations of Title 18 of the US Code regarding criminal violations involving federal agencies, including 18 USC §1519 *Destruction, alteration, or falsification of records in Federal investigations and bankruptcy*. This involves, *inter alia*, MCLM admitted, as evidenced in a declaration by David Predmore, and statements to FCC, to allowing the records of construction and operation of the stations it was acquiring from Mobex to be destroyed (because it allegedly had no need for them): see e.g. MCLM’s Opposition to Petition to Deny regarding renewal of Call Sign WRV374, filed August 8, 2011, at its page 3 and Exhibit 1. MCLM’s Opposition is at: <https://wireless2.fcc.gov/UlsEntry/attachments/attachmentViewRD.jsp?applType=search&fileKey=443708627&attachmentKey=18771180&attachmentInd=applAttach> ). MCLM has not disputed this. In fact, Predmore was deposed on this declaration and admitted in testimony that he was instructed to assert the principle arguments

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<sup>6</sup> As one example, of many: For example, Oliver Phillips is not an innocent party, since his debt claim was solely against Donald DePriest, but somehow ended up being assumed by MCLM for no consideration at all. In other words, Phillips and Donald DePriest agreed to improperly shift Phillips’ debt with Donald DePriest over to MCLM, because they knew Donald DePriest was the real controller of MCLM and could get it to do so, but when both knew that MCLM’s asserted position before the FCC is that Donald DePriest had no control or interest in MCLM. Further, all of MCLM’s bad actions were already known when Phillips and DePriest entered into the “Contract and Settlement Agreement” contained in Phillips’ proof of claim, Claim 66-1, at its Exhibit A. That is just one example of why DePriest’s, and now MCLM’s, single largest creditor was not “innocent”, and shows why FCC 16-172 failed to determine “innocent creditors” (Phillips is only a creditor of MCLM because of Donald DePriest’s and Phillip’s improper agreement, in which MCLM got no consideration for assuming Donald DePriest’s personal debt). Havens has raised this issue in his challenges, including his Assignment Recon (page 8, footnote 11) and his Petition 2 at page 17, and in his prior challenges including in docket 13-85.

in his declaration by John Reardon (officer/employee of MCLM and Choctaw), and that those elements were not truthful. This has been presented to FCC and ALJ Sippel, but has not yet been ruled upon. This is one component of my current challenges to the 3 Orders (see e.g. See Havens facts and arguments in his “Petition 2” of FCC 16-172 (link given above), at its page 17; and Havens’ Extension Recon at its Section II.C.2 and 3, and pages vi and 18.

(4) MCLM continued Havens challenges, and Havens’ continued counterclaims. See Preliminary Statement ‘(4)’. In addition: See the Havens FCC pleadings at the FCC web links provided herein. Mostly, see the planned Supplement to this Motion if permitted by the Court (see above).

(5) Havens has required legal standing. See Preliminary Statement ‘(5)’: Petitioner maintains, with no gap, to legal standing—and is acting timely—to continue as he is doing before the FCC (and in the bankruptcy case below and in this Appeal Case) to prosecute his claims against and in the licenses, as well as claims for sanctions and damages against MCLM. MCLM, Choctaw and the Unsecured Creditor’s Committee and Liquidating Agent were factually incorrect to take the position that Havens does not have standing and interest to pursue challenges before FCC to all of MCLM’s licenses, including its geographic licenses. As shown above, Havens has timely challenged the FCC’s Order regarding MCLM’s license renewal and extension applications, and assignment to Choctaw, FCC Order, DA 17-450, and he is challenging the FCC’s December 2016 “Second Thursday” decision, FCC 16-172, that Havens maintains was timely, including because FCC 16-172 had no practical effect without the later Bureau level decision, DA 17-26 and Division level decision, DA 17-450 that granted MCLM’s renewals and extension requests that Havens timely challenged and has on appeal. Havens previously showed this Court that he is challenging the FCC’s “Second Thursday” Order, FCC 16-172, and the FCC’s Order, DA 17-26, regarding MCLM’s assignment applications to various entities, and MCLM’s renewal and extension Applications, DA 17-450—see Havens’

OPPOSITION TO JOINT MOTION TO DISMISS HAVENS' APPEALS, filed on March 24, 2017, including at its Exhibits 1, 2 and 4 (Doc # 100), and Havens' 6/28/17 Request and Motion, including at its Exhibit 1. Those challenges (links above) are self-explanatory upon reading them, including those sections with Havens' facts and arguments regarding why the FCC is incorrect to find that Havens does not have standing and interest. Those include that the Commission found Havens had standing and interest in its Order to Show Cause and Hearing Designation Order, FCC 11-64—making Havens a party to the FCC's hearing in Docket No. 11-71, which is what ultimately led to the FCC's Docket 13-85 regarding MCLM and Choctaw Second Thursday request, and in the FCC decisions on Havens' challenges to MCLM's Auction 61 application that did not find he did not have standing and interest to challenge.

Havens' above-noted pending challenges at the FCC state why Havens has standing and interest to challenge MCLM, and those same reasons and showings apply here in this case. Havens does not fully restate those here because they are self-evident in his above-noted challenges to which he is providing links.

Contrary to the arguments in the Joint Renewed Request on Motion to Dismiss filed by MCLM, Choctaw, the Official Committee of Unsecured Creditors and the Liquidating Agent, Havens shows the following as further support for grant of this Motion and rescission of the Order.

Havens has standing, shown in his challenges before the FCC, including his prior petitions decided by the 3 Orders and his pending appeals of the 3 Orders, including but not limited to his most recent petition for reconsideration of DA 17-450 (the "Extension Recon"), part of which was included as Exhibit 1 to Havens' 6/28/17 Request and Motion, and to be further shown in Reply to be filed with the FCC this coming Friday. See e.g. Havens' facts and arguments at the Extension Recon's Section II.A of the Recon of DA 17-450 and its Appendixes 1-6. Also, see the Assignment Recon at its page 2, footnote 2, Section 8, page 24, and footnote

6; and the Petition 1 at its page 7; and the Reply to be filed this coming Friday with the FCC (Havens intends to supplement this Motion once that Reply is filed).

Further, Havens' standing is shown by the fact that the FCC in April of this year denied a petition for declaratory ruling filed by Havens and Polaris regarding FCC rule §80.385(b) and the Third Circuit's decision related the FCC's "Cooperation Orders" regarding said rule section. If Havens had not had standing, then the FCC would not have addressed and denied that petition for declaratory ruling, but instead, it would have dismissed or ignored it entirely. The fact that the FCC decided on the petition's substance shows Havens has standing and interest in matters related to MCLM. Havens is appealing that denial. His petition is at the following FCC website link <https://ecfsapi.fcc.gov/file/1051245501810/PtRcn%20Denial%20DecRuling%20re%2080.385b.pdf>

(6) MCLM's unlawful actions are grounds for relief. See Preliminary Statement '(6)'. In addition: MCLM's unlawful actions, including those above, prejudiced Petitioner and are ground for relief otherwise not available, including equitable tolling, supporting grant of at least alternative relief requested in this Motion. In addition: See the Havens FCC pleadings at the FCC web links provided herein. See also the planned Supplement to this Motion if permitted by the Court (see above).

(7) Additional grounds that also apply:

MCLM licenses and recent FCC Orders sustaining them, are based on FCC and MCLM ultra vires actions and are void. MCLM Licenses are void *ab initio*, and the special-relief FCC Orders MCLM procured are based on MCLM and FCC *ultra vires* action resulting in the Orders being void, not simply in error as to decisional facts, and discretionary standards (arbitrary and capricious, contrary to precedent, etc.) and subject to reconsideration on de novo basis. This involves, *inter alia*:

(i) MCLM has never fulfilled the minimum FCC requirements to obtain approval of the actual controlling interest in MCLM, absent which its licenses are void.

(ii) In addition, Havens has demonstrated to the FCC, that the MCLM licenses terminated by action of law for failure to meet the minimum conditions for renewals, which concern “construction” of the licenses, or an extension of the time to construct that is permitted under specific FCC rules (see link below to Havens’ appeal of FCC Order, DA 17-450). For that grant of a waiver of the essential FCC rule, within 47 CFR Section 1.946, MCLM sought a two-year extension of the construction deadline and the Wireless Bureau granted that in a recent month. Havens appealed that first on the basis that a Wireless Bureau staff lack authority to waive a clear rule without a demonstration to waive the rule and grant of that. MCLM did not seek a waiver of the above- noted rule, nor did FCC grant such a waiver. Thus, my challenge to the MCLM license renewals and construction-extensions asserts that the licenses have terminated by action of law, which is also stated in 47 CFR Section 1.946 and a related rule Section 1.955, and supported by the FCC’s recent Public Notice, DA 17-573 (Exhibit 2 to Havens’ 6/28/17 Request and Motion).

(iii) The FCC three Orders, FCC 16-172, DA 17-26 and DA 17-450 are *ultra vires* decisions and void *ab initio* (the “3 Orders”). The 3 Orders are interdependent, since they constitute components in providing relief to MCLM. If any one of the orders fails, then the others do too. Havens’ position at FCC is that the FCC relief given MCLM in the 3 Orders is *ultra vires* and results in 3 Orders being void *ab initio*. The FCC’s 3 Orders are *ultra vires* under Section 309(j) because the FCC is violating its own rules for auctioning of license spectrum as mandated by Congress, and in doing so the FCC is also violating Havens’ petition and property rights, for which he can pursue legal remedies before the FCC, the DC Circuit, and before another court of appropriate jurisdiction including under the Tucker Act, Communications Act, and other law.

The below noted, pending Havens challenge filings at the FCC are made under Commission rules, but they also ask for treatment as informal filing, in the alternative. Havens

provides the following FCC website links to his pending challenges of the 3 Orders, rather than attach them to this Motion, since they are readily available off the FCC's website, and it is more efficient and effective to provide links to the FCC official, filed copies on the FCC's website; however, if the Court would prefer, he can provide paper copies upon request:

- (1) Havens appeals of FCC Second Thursday Order, FCC 16-172: **"Petition 1"** :

<https://ecfsapi.fcc.gov/file/10118254683143/1.%20Petition-1%20Recon.pdf>. And **"Petition 2"**:

<https://ecfsapi.fcc.gov/file/10118254683143/2.%20Petition-2%20Recon.pdf> and its Appendix 1:

[https://ecfsapi.fcc.gov/file/10118254683143/Petition%202%2C%20Appendix%201%20\(chart\).pdf](https://ecfsapi.fcc.gov/file/10118254683143/Petition%202%2C%20Appendix%201%20(chart).pdf). And

**Petition 2, Appendix 2** <https://ecfsapi.fcc.gov/file/10118254683143/Petition%202%2C%20Appendix%202.pdf>

- (2) Havens' appeal of FCC Wireless Bureau Assignment Order, DA 17-26 (the "Assignment Recon"):

<https://wireless2.fcc.gov/UlsEntry/attachments/attachmentViewRD.jsp?applType=search&fileKey=1554132445&attachmentKey=20085195&attachmentInd=applAttach>

**errata and supplement:**

<https://wireless2.fcc.gov/UlsEntry/attachments/attachmentViewRD.jsp?applType=search&fileKey=1783120982&attachmentKey=20085197&attachmentInd=applAttach>

**and its Exhibit 1:**

<https://wireless2.fcc.gov/UlsEntry/attachments/attachmentViewRD.jsp?applType=search&fileKey=1063129907&attachmentKey=20085193&attachmentInd=applAttach>

**and Exhibit 2:**

<https://wireless2.fcc.gov/UlsEntry/attachments/attachmentViewRD.jsp?applType=search&fileKey=1814437765&attachmentKey=20085194&attachmentInd=applAttach>

- (3) Havens' appeal of FCC Mobility Division Renewal and Extension Order, DA 17-450 (the "Extension Recon"): [https://ecfsapi.fcc.gov/file/10613895807077/-](https://ecfsapi.fcc.gov/file/10613895807077/-%20wh1.%20PtRecon%20FCC%20DA%2017-450.pdf)

[%20wh1.%20PtRecon%20FCC%20DA%2017-450.pdf](https://ecfsapi.fcc.gov/file/10613895807077/-%20wh1.%20PtRecon%20FCC%20DA%2017-450.pdf)

**Errata appeal copy -** [https://ecfsapi.fcc.gov/file/10613229867901/errt%20-](https://ecfsapi.fcc.gov/file/10613229867901/errt%20-wh1.%20PtRecon%20FCC%20DA%2017-450.pdf)

[wh1.%20PtRecon%20FCC%20DA%2017-450.pdf](https://ecfsapi.fcc.gov/file/10613229867901/errt%20-wh1.%20PtRecon%20FCC%20DA%2017-450.pdf)

**and its Appendixes,** [https://ecfsapi.fcc.gov/file/10613862013571/-](https://ecfsapi.fcc.gov/file/10613862013571/-Appendixes%2C%20PtRecon%20FCC%20DA%2017-450.pdf)

[Appendixes%2C%20PtRecon%20FCC%20DA%2017-450.pdf](https://ecfsapi.fcc.gov/file/10613862013571/-Appendixes%2C%20PtRecon%20FCC%20DA%2017-450.pdf)

**and its Exhibit 1:**

<https://ecfsapi.fcc.gov/file/10613862013571/Exhibit%201%20FCC%20website%20re%201.946.pdf>

**and Exhibit 2:**

<https://ecfsapi.fcc.gov/file/10613862013571/Exhibit%202%20Admin%20page%20WQGF315%20-%20no%20ext%20rqst%20application.pdf>

and Exhibit 3:

<https://ecfsapi.fcc.gov/file/10613862013571/Exhibit%203%20FCC%20Ltr%20to%20MCLM%20re%20rqst%20ext%201.946.pdf>

Further regarding FCC Orders Being Ultra Vires and Void Ab Initio:

Petitioner Havens’ above-noted challenges to the 3 Orders do not just argue that FCC abused discretion, but that on most fundamental basis the FCC’s 3 Orders are void ab initio and ultra vires, because of FCC and MCLM ultra vires actions, which are already presented in challenges at FCC, including appeals, and will be further articulated in Havens Reply due this Friday (re: FCC Order, DA 17-450) and to be submitted soon to the FCC in a request for stay of the 3 Orders. See e.g. the Extension Recon at its Section III.A., pages 8-17, and its Section III.B, pages 17-18 and at its Section III.C., pages 18-20. See Havens facts and arguments in his “Petition 2” of FCC 16-172 (link given above), at its pages 3, 5-7, 12-17. Also, see the Assignment Recon at its Section 1, pages 4-6 and pages 6-17.

In summary, Havens challenge to MCLM and FCC actions being void ab initio and ultra vires include the following: (1) MCLM concealment of actual control and ownership (see e.g. Extension Recon at its Section III.C, Assignment Recon at its Section 4, pages 6-16 and its Section 5, pages 16-17); (2) actual control in MCLM that was admitted was never formally submitted to FCC in a transfer of control application as required by FCC rules; apparently because it would have subjected MCLM to further challenges by Havens and in times at past by Skytel entities, and probably further FCC investigations, and precedents show that when a party actually changes its control (and here it is admitted—that Donald DePriest is spouse), then the licenses granted under inaccurate control are void. Havens has cited precedents in his challenges; (3) arguments in Havens’ and receivership entities’ application for review of MCLM’s Auction 61 application, that showed MCLM admitted to cheating to get 35% discount and that disqualified MCLM and required offering those licenses to lawful high bidder. In that



application for review proceeding, Havens demonstrated that MCLM admitted to unlawful bidding credit and that under prevailing case law (McKay and Superior Oil and Biltmore cases), the FCC, or any other federal agency authority issuing licenses by auction, must offer the licenses to the lawful high bidder when the high bidder admits or is found to have cheated or been disqualified. Havens' argument in the application for review is that the MCLM licenses are void ab initio and that was also his position maintained throughout FCC Dockets 11-71 and 13-85 (the latter being regarding MCLM's Second Thursday relief request). That matter is upon appeal as part of Havens' challenge proceedings to the FCC's interdependent, inter-related 3 Orders described herein; (4) Another reason Havens asserts void ab initio and ultra vires, and that Havens intends to further show in forthcoming filings to FCC and bankruptcy court, noted above, is that MCLM did not have authority from the bankruptcy court or this court for the actions before the FCC to obtain special relief which was issued in the 3 Orders, and due to that lack of authority, those relief attempts and the three FCC Orders should be found void ab initio.

#### CONCLUSION

WHEREFORE, Petitioner respectfully requests grant of the relief requested herein.

Respectfully submitted,

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July 12, 2017



CM/ECF hrg4  
(Rev. 08/02/16)

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF MISSISSIPPI**

In Re: Maritime Communications/Land  
Mobile, LLC  
Debtor(s)

)  
)  
)  
)  
)

Case No.: 11-13463-NPO  
Chapter: 11  
Judge: Neil P. Olack

PLEASE TAKE NOTICE that an evidentiary hearing will be held at:

Cochran U.S. Bankruptcy Courthouse, 703 Highway 145 North,  
Aberdeen, MS 39730

on 8/31/17 at 11:00 AM

to consider and act upon the following:

**1469** – Document First Amended Notice of Plan Effective Date Filed by Craig M.  
Geno on behalf of Maritime Communications/Land Mobile, LLC. (Geno, Craig)

**1472** – Response Filed by Warren Havens (RE: related document(s)1469 First  
Amended Notice of Plan Effective Date filed by Debtor Maritime  
Communications/Land Mobile, LLC). Entered on Docket by: (LLG)

Please note that a corporation, partnership, trust, or other business entity, other than a sole proprietorship, may appear and act in Bankruptcy Court only through a licensed attorney.

Dated: 7/12/17

Shallanda J. Clay  
Clerk, U.S. Bankruptcy Court  
BY: ALD  
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION

HAVENS, et al.,

Appellants,

v.

MARITIME COMMUNICATIONS/  
LAND MOBILE, LLC,

Appellee.

CIVIL ACTION NO. 1:13-cv-00173-SA  
Lead Case  
Consolidated with  
1:13-cv-174-SA

AND

HAVENS, et al.,

Appellants,

v.

MARITIME COMMUNICATIONS/  
LAND MOBILE, LLC,

Appellee.

CIVIL ACTION NO. 1:13-cv-00180-SA  
Consolidated with  
1:13-cv-00181-SA  
1:13-cv-00182-SA  
1:13-cv-00183-SA  
1:13-cv-00184-SA  
1:13-cv-00190-SA  
1:13-cv-00191-SA  
1:13-cv-00192-SA  
1:13-cv-00193-SA  
1:13-cv-00194-SA

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on July 12, 2017, I have caused to be served a copy of the **MOTION FOR REHEARING**, filed by Warren Havens, party pro se, in the above-styled and numbered cases (delivered to the Clerk of the Court on July 12, 2017), on the following parties:

Craig M. Geno, Esq.  
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Counsel for Liquidating Trustee)

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(Counsel for Choctaw)

By: 

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July 12, 2017